

IRM PROCEDURAL UPDATE

DATE: 05/21/2025

NUMBER: ts-03-0525-3311

SUBJECT: C&E Reviewing Form 8288-A

AFFECTED IRM(s)/SUBSECTION(s): 3.21.25.16.1

CHANGE(s):

IRM 3.21.25.16.1(4)(a) - Clarified instructions when correcting the withholding agent's information.

(4) Buyer/Withholding Agent on Form 8288-A and Form 8288 are not the same: Take the following steps:

Reminder: The actual buyer should be someone other than a Title, Escrow, or Abstract company, or an Attorney, CPA or PA. If unsure, refer to above paragraph (3) for instructions. Escrow companies and real estate attorneys sometimes incorrectly complete Forms 8288 and Forms 8288-A listing themselves as the buyers when handling multiple real estate transactions involving foreign sellers subject to FIRPTA withholding. This results in the creation of only one MFT 17 account since only one can be created under a TIN/EIN. When multiple Forms 8288 and Forms 8288-A are filed by the same escrow company for different real estate transfers, only one TC 150 is created for the first Form 8288 filed, and any subsequent FIRPTA forms filed after the first real estate transfer is recorded as a TC 290. There is only one transfer date recorded on the MFT 17 account for the first Form 8288 filed. This creates a problem for the escrow company as it may receive penalty notices for deposits the IRS thinks are late since they are being made after the only transfer date shown on the MFT 17 account. Additionally, if the escrow company does not file any Forms 8288 and Forms 8288-A, the foreign seller may find it difficult to locate the FIRPTA income tax withheld since it is recorded in the escrow company's MFT 17 account and not the MFT 17 account of the real buyer.

- a. Use the actual buyer's information from Form 8288 or Form 8288-A, as the withholding agent to report on Line 1 of Form 8288, or prepare a new Form 8288-A with the actual buyer's information edited in the withholding agents block of Form 8288-A. This includes the withholding agent's name, address, and TIN.

Note: To prevent disclosure of Personally Identifiable Information (PII), the **Withholding Agent's SSN must be redacted** prior to mailing. No redaction of EIN is required.

- b. Enter the data from the newly prepared Form 8288-A into the Form 8288-A Database.
- c. Draft Letter 3296 (SC/CG) or Letter 3296C. In addition, date stamp the 8288-A Copy B and mail it out to the foreign seller with the letter.

Note: If an **alternate** mailing address appears on Form 8288-A, below box 6, then mail Form 8288-A Copy B to the foreigner at the mailing address listed in the box. **Also, document the alternate mailing address in the "Remarks" area of the 8288-A database.**

Reminder: If the Form 8288-A doesn't have a TIN then don't date stamp or mail the Form 8288-A "Copy B" to the foreign seller.

Reminder: Research IDRS to verify the payment was made. Do not send Form 8288-A Copy B if the payment has not been made.